

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

SAMMY RAY BREWSTER,

Plaintiff,

v.

DIRECTOR, TDCJ-CID,

Defendant.

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CIVIL ACTION NO. 5:19-CV-00159-RWS

ORDER

Petitioner Sammy Ray Brewster, formerly an inmate confined within the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed this petition for writ of habeas corpus. The Court referred this matter to the United States Magistrate Judge.

The Magistrate Judge submitted a Report and Recommendation recommending the petition be dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(b). Docket No. 16. Petitioner acknowledged receipt of the Report and Recommendation on February 1, 2021. Docket No. 17.

The parties had 14 days from receipt of the Report and Recommendation to file objections. To date, no objections have been filed.

Because no objections to the Magistrate Judge's Report have been filed, neither party is entitled to *de novo* review by the District Judge of those findings, conclusions and recommendations, and except upon grounds of plain error, they are barred from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the District

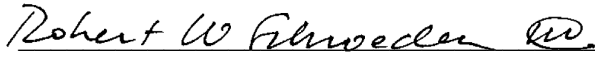
Court. 28 U.S.C § 636(b)(1)(C); *Douglass v. United Services Automobile Assoc.*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc).

Nonetheless, the Court has reviewed the motion and the Magistrate Judge's report and agrees with the report. *See United States v. Raddatz*, 447 U.S. 667, 683 (1980) (“[T]he statute permits the district court to give to the magistrate’s proposed findings of fact and recommendations ‘such weight as [their] merit commands and the sound discretion of the judge warrants.’”) (quoting *Mathews v. Weber*, 23 U.S. 261, 275 (1976)). As Petitioner failed to respond to a court order directing him to provide additional information regarding his petition, he has failed to diligently prosecute this case.

Accordingly, finding no plain error in the findings of fact and conclusions of law of the Magistrate Judge, the Court **ADOPTS** the Report and Recommendation of United States Magistrate Judge as the findings and conclusions of this Court. It is therefore

ORDERED that this petition for writ of habeas corpus is **DISMISSED** without prejudice pursuant to Federal Rule of Civil Procedure 41(b). An appropriate Final Judgment shall be entered dismissing the petition.

SIGNED this 1st day of March, 2021.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE